

REMARKS

In the Office Action, the Examiner rejected claims 1-20 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2005/0004860 of Pretell et al. ("Pretell") in view of U.S. Patent Publication No. 2003/0093343 of Huttenlocher et al. ("Huttenlocher").

By this Reply, Applicants have amended claim 3 to more clearly claim the subject matter. Claims 1-20 are currently pending. Based on the foregoing amendments and the following remarks, Applicants traverse the rejection of the pending claims.

A. Rejection of Claims 1-20 Under 35 U.S.C. § 103(a)

The Examiner rejected claims 1-20 under 35 U.S.C. § 103(a) as being unpatentable over Pretell in view of Huttenlocher. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. M.P.E.P. § 2142, 8th Ed., Rev. 5 (August 2006). Moreover, "in formulating a rejection under 35 U.S.C. § 103(a) based upon a combination of prior art elements, it remains necessary to identify the reason why a person of ordinary skill in the art would have combined the prior art elements in the manner claimed." USPTO Memorandum from Margaret A. Focarino, Deputy Commissioner for Patent Operations, May 3, 2007, page 2.

Applicants respectfully submit that the Examiner failed to establish a *prima facie* case of obviousness with respect to the independent claims for at least the reason that Pretell and Huttenlocher, taken alone or in combination, fail to teach or suggest every claim element recited in the independent claims. For example, the references fail to teach or suggest at least “a database . . . comprising entries of firm offers to borrow and firm offers to lend,” “determining whether [a] query reflects a firm offer to borrow or a firm offer to lend an asset,” and “ . . . creating without an option to alter attributes of the firm offer to lend and attributes of the firm offer to borrow, a secured loan between at least one borrower that submitted the firm offer to borrow and at least one lender that submitted the firm offer to lend,” as recited in amended independent claim 1. Independent claims 3, 12, and 20, although of different scope, recite similar elements not taught or suggested by the prior art of record.

The Examiner asserted that Pretell teaches “a database . . . comprising entries of firm offers to borrow and firm offers to lend . . . ” by citing paragraphs 0014, 0038, 0040-42, and 0044 of Pretell. Office Action at 2-3. However, the cited paragraphs merely mention “a database.” Nowhere does Pretell disclose **firm offers to borrow** and **firm offers to lend**, or a database that contains firm offers.

Instead, Pretell teaches “[a] loan advisory method and system that compares one or more currently available loans and recommends the loan or loans with the lowest cost over the time period the user wants to consider.” Pretell, Abstract. “The invention uses real-time credit based rates and actual underwriting rules to determine the lowest cost loans for which a user qualifies.” Id. As the Examiner admits, Pretell does not teach or suggest a loan marketplace.

Thus, the system of Pretell collects loan-related information from the user, processes the information, and determines recommended loans (e.g., the lowest cost loans) for the user from a previously stored set of loan characteristics. Id. Based on the determination, the system of Pretell recommends one or more loans to the user, and “the user **may choose to apply** for one of the recommended loans.” Pretell, paragraph 0200, FIG. 19A. The user may also choose not to apply for a loan. According to Pretell, the user has not made a firm offer to borrow because he can choose not to apply, and a financial institution has not made a firm offer to lend because the institution is not even aware of the Pretell system’s recommendation.

Moreover, even applying for a loan is not a firm offer to borrow because the terms of the loan are not set in an application. Similarly, Pretell’s recommended loans are not firm offers to lend because they are merely loan characteristics compiled beforehand by the system of Pretell for the purpose of advising the user. They are presented to a user by the system of Pretell as available products, but not as firm offers to lend by a lender. The user **must still apply** to a lender for one of the recommended loans, and even after the user applies, the lender will process the application and may determine not to lend assets to the user.

Because Pretell fails to teach or suggest “a database . . . comprising entries of firm offers to borrow and firm offers to lend . . . ,” as explained above, Pretell also fails to teach or suggest all the other independent claim elements that reference firm offers, such as “determining whether [a] query reflects a firm offer to borrow or a firm offer to lend an asset,” as recited in amended independent claim 1. The Examiner asserted that Pretell discloses the “determining . . . ” element in paragraph 0053. However,

paragraph 0053 teaches electing whether a user wishes to minimize a total loan payment or to pay minimal after-tax interest costs. Specifying a loan selection preference by a borrower has nothing to do with determining whether a query reflects a firm offer to borrow or a firm offer to lend.

Similarly, Pretell fails to teach or suggest “. . . creating without an option to alter attributes of the firm offer to lend and attributes of the firm offer to borrow, a secured loan between at least one borrower that submitted the firm offer to borrow and at least one lender that submitted the firm offer to lend,” as recited in independent claim 1 and the similar elements recited in independent claims 3, 12, and 20. The system of Pretell merely recommends one or more loans to a user and offers the user a link to a loan application. This does not teach or suggest “creating . . . a secured loan between [a] borrower and [a] lender,” as recited in the independent claims.

Moreover, as explained above, there are no firm offers taught or suggested because the user of Pretell is free to alter the information the user initially provided to the system when the user later applies to a lender for a loan. “[A]fter one or more loans are recommended to a user, the use may choose to apply for one of the recommended loans directly through the host website . . . [and i]n this instance, **a loan application is presented and the user may enter the information.**” Pretell, paragraph 0200. “The invention also allows the user to **directly apply for the loan** of their choosing.” Pretell, paragraph 0201. In both cases, the user is allowed to enter information directly in a loan application, giving an opportunity to enter information that is different from the information that the user initially provided to the system of Pretell when the user obtained the recommendation.

Huttenlocher fails to cure the deficiencies of Pretell. Huttenlocher allegedly “discloses a marketplace [that] allows a buyer or seller of an asset to choose what portion of the audience in an electronic marketplace will see the order.” Office Action at 4. Even assuming that is accurate, Huttenlocher fails to teach at least “a database . . . comprising entries of firm offers to borrow and firm offers to lend,” “determining whether [a] query reflects a firm offer to borrow or a firm offer to lend an asset,” and “ . . . creating without an option to alter attributes of the firm offer to lend and attributes of the firm offer to borrow, a secured loan between at least one borrower that submitted the firm offer to borrow and at least one lender that submitted the firm offer to lend,” as recited in independent claim 1, and the similar elements recited in independent claims 3, 12, and 20. Huttenlocher relates to *buying and selling* financial products, not to lending.

Finally, neither Pretell nor Huttenlocher teaches or suggests fungible collateral assets as recited in independent claims 3, 12, and 20. Pretell's real estate and vehicle collateral are unique assets that are not fungible.

For at least the reasons set forth above, Pretell and Huttenlocher, taken alone or in combination, fail to teach or suggest every claim element recited in independent claim 1. Accordingly, Applicants respectfully request reconsideration and withdrawal of the § 103 rejection of claim 1 based on Pretell and Huttenlocher.

Independent claims 3, 12, and 20, although of different scope, recite features that are similar to the features recited in amended independent claim 1. For reasons similar to those set forth with respect to claim 1, Pretell and Huttenlocher, whether taken alone or in combination, fail to support the § 103 rejection of claims 3, 12, and 20.

Accordingly, Applicants respectfully request reconsideration and withdrawal of § 103 rejection of claims 3, 12, and 20 based on Pretell and Huttenlocher.

Claims 2, 4-11, and 13-19 depend from amended independent claims 1, 3, and 12, respectively. For reasons similar to those set forth with respect to claim 1 and by virtue of their dependence from an allowable independent claim, dependent claims 2, 4-11, and 13-19 are also allowable over Pretell and Huttenlocher.

Furthermore, dependent claims 2, 4-11, and 13-19 recite further elements not suggested by Pretell or Huttenlocher. For example, claim 6 recites “determining whether [a] secured loan has reached maturity according to the loan term; determining whether [a] borrower has provided the loaned asset and the loan fee, when the loan reaches maturity; and transferring the fungible collateral asset to the lender if the borrower has not provided the loaned asset and a loan fee when the loan reaches maturity.” Although the Examiner asserted that Pretell teaches the subject matter recited in claim 6 in paragraph 0053, as explained above, paragraph 0053 teaches electing whether a user wishes to find a loan that may minimize a total loan payment or a loan that may minimize after-tax interest costs. This has nothing to do with “determining whether [a] secured loan has reached maturity according to the loan term; determining whether [a] borrower has provided the loaned asset and the loan fee, when the loan reaches maturity; and transferring the fungible collateral asset to the lender if the borrower has not provided the loaned asset and a loan fee when the loan reaches maturity,” as recited in claim 6. As set forth above with respect to the independent claims, the system of Pretell merely recommends one or more loans to a user, and

provides a link to apply for a loan. The system of Pretell does not create or service a loan.

For these additional reasons, Pretell and Huttenlocher, taken alone or in combination, fail to support the § 103 rejection of claims 2, 4-11, and 13-19. Accordingly, Applicants respectfully request reconsideration and withdrawal of § 103 rejection of claims 2, 4-11, and 13-19 based on Pretell and Huttenlocher.

B. Conclusion

In view of the foregoing remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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